Title
A review of The Great Leveler: Capitalism and Competition in the Court of Law, by Brett Christophers

Journal
Economic Geography, 93(1)

ISSN
0013-0095

Author
Sheppard, Eric

Publication Date
2017

DOI
10.1080/00130095.2016.1205944

Peer reviewed

Economic Geography

ISSN: 0013-0095 (Print) 1944-8287 (Online) Journal homepage: http://www.tandfonline.com/loi/recg20

A review of The Great Leveler: Capitalism and Competition in the Court of Law By Brett Christophers

Eric Sheppard

To cite this article: Eric Sheppard (2016): A review of The Great Leveler: Capitalism and Competition in the Court of Law By Brett Christophers, Economic Geography, DOI: 10.1080/00130095.2016.1205944

To link to this article: http://dx.doi.org/10.1080/00130095.2016.1205944

Published online: 16 Aug 2016.

The Great Leveler: Capitalism and Competition in the Court of Law

Edited by Brett Christophers
Cambridge, MA: Harvard University Press, 2016.

In this thoroughly researched and engagingly written monograph, Brett Christophers makes two significant contributions to the eclectic field of geographic political economy. He argues, convincingly, that economic geographers must attend better to how the law shapes shifting geographies of capital accumulation, while also examining a longer history of capitalism than has been the norm in recent geographical scholarship—taking the reader back to the 1890s. He also provides a comparative analysis of the two national economies exemplifying the free-market end of capitalist political economy: the United States and the United Kingdom. Theoretically, he argues that sustainable capitalist economic growth is contingent on reasserting a *balance* between disabling lurches toward monopoly or (perfect) competition, either extreme undermining long-term capital accumulation, and that intellectual property (IP) laws and antitrust/competition laws are key to doing so. IP laws underwrite tendencies toward monopoly, whereas antitrust initiatives favor competition. Empirically, he examines three historical phases of capital accumulation in the United States and the United Kingdom: from the 1890s depression to World War II, from 1945 to the crisis of Fordism, and the current era of neoliberalization. The outset of each era is characterized as a moment when either competition or monopoly has become dangerously dominant in both countries (competition, monopoly, and competition, respectively), with the law being resorted to in each phase (to IP, antitrust and IP, respectively) to restore balance. It is in this sense, Christophers argues, that the law "per se" (p. 4) acts as the *great leveler*.

The argument is developed in two blocks of three chapters, conceptual and empirical, bracketed by an introduction and conclusion. The chapters of part I, Leveling in Theory, examine theories of capital accumulation, the role of markets, and the role of law. Part II, Leveling in Practice, includes one chapter for each of the three phases. The theoretical inspiration is Marxist, with the book accessible to an audience unfamiliar with (or skeptical of) Marx's *Capital*: a real strength is Christophers's ability to concisely make the case for Marx to such an audience. This is a rich and significant monograph, which any economic geographer, and many others beside, should read. Notwithstanding some difficulties I have with details of the argument, it pushes forward an important, neglected area of economic geography.

The three conceptual chapters explore three questions: the degree to which competition and monopoly shape accumulation dynamics, the necessity of attending better to markets within geographic political economy, and the role of law in capitalist regulation. Across chapters 1 and 3, reading broadly across Marxian theory and more mainstream work on monopolistic competition, he makes the case for competition and monopoly as dialectically interrelated, with maintenance of an "unstable balance between the two forces" (p. 15) necessary for the functioning of capitalism. Chapter 2 argues that the Marxian focus on production has neglected markets, which can shape production and are central to understanding competition. Chapter 3 demonstrates how the law, and competition, have received short shrift in regulation theory—currently the default approach to conceptualizing such phases. These are significant oversights, given that Christophers "posits the law as the primary, necessarily mutable, instrument" (p. 15) for maintaining this unstable balance.

00(00):1–3. © 2016 Eric Sheppard. www.economicgeography.org

I agree that tendencies toward monopoly and competition are dialectically in contradiction, but metaphors of balance and "golden mean" (p. 84), redolent of unstable equilibria, feel too limiting to describe the complexity of dialectical change. A strange attractor might be more appropriate—an unachievable possibility that competition and monopoly circulate around. The constraints that too much competition or monopoly pose to accumulation also are somewhat overdrawn. In Marxist theorizations of capital accumulation, unlike Chamberlin (or Krugman), profit rates can be positive even under *pure* competition due to low wages (exploitation). Further, monopoly need not trigger underconsumption, as averred here, since firms sell also to one another: a lack of household consumption can be made up in capital goods markets. Markets need attention but are not as neglected in political economy as suggested here. For purposes of this analysis, the issue is market structure (competition vs. monopoly) rather than household consumption per se (which Michio Morishima and John Roemer incorporate into Marx). Further, markets for capital goods—the target for many of the economic sectors discussed in part 2—are fully part of Marx's intersectoral theory of expended reproduction.

Part 2 makes good on adding the law to geographic political economy. It is the second such recent study: Josh Barkan's *Corporate Sovereignty: Law and Government under Capitalism* (University of Minnesota Press, 2013) has a similar historic and geographic scope. Christophers does a very nice job of comparative analysis, attentive to the limitations of comparing bounded territorial units, and effectively teasing out distinct intra- and international geographic aspects shaping similar yet variegated responses in each era. Chapter 4, Designs on Monopoly, covers the emergence of IP law after the 1890s in both countries, enabling monopoly when the consensus was that competition was excessive, including how it trumped the 1890 antitrust Sherman Act in the United States. He draws impressively on historic materials and is largely convincing to a reader—myself—unfamiliar with this era. I wanted direct evidence, possibly unavailable, that market structures shifted toward monopoly. A leitmotif throughout part II appears here: How to assess the causal force of IP and antitrust law relative to other factors. Trade protectionism and cartelization are listed here (I would add Barkan's argument about emergence of corporate sovereignty).

Chapter 5, The Revival of Competition, covers Fordism, a more familiar period for economic geographers. By 1945, monopolies were seen as too strong, triggering antitrust law. As a result, in different ways shaped by distinct national and international forces, the United States and United Kingdom both turn to antitrust/competition laws, trumping a more moribund IP domain. Christophers's argument challenges some nostrums from Fordist regulation theory, which usually prioritizes the power, backed by the state, of unionized corporations producing standardized goods. Christophers stresses the declining influence of monopoly (with the exception of steel and automobiles). Regulation theorists stress the rising political power of labor; Christophers stresses antitrust law. Other causal factors are acknowledged (Keynesian fiscal policies, military Keynesianism, spatial fixes) but arguments about labor are dismissed in favor of Kalecki's accounting identity linking net returns on capital (presumed to measure monopoly power) with labor's share of the national income: "the alternative, Kalecki-type argument thus carries more weight" (p. 212). Yet this compares apples with oranges: the shifting politics of production and labor geographies (cf. Andy Herod demonstrating the vulnerability of corporations to organized labor) are exogenous to Kalecki's identity.

Chapter 6, Remaking Monopoly for the Twenty-First Century, covers the era of neoliberalization. Throughout, Christophers offers a nuanced comparison that illuminates the legal, political, and economic theoretical institutions and debates shaping shifts in the relative weight of IP and antitrust. Here, he explains how Chicago School influences, shaping economics, law, and the courts, redefined the policy goal to become economic efficiency not the degree of monopoly, with the effect of aligning IP and antitrust policies with one another (IP becoming the driving force). This legal shift, he argues, triggered a "mini golden age" (p. 256) of UK and US economic growth (1983–2007). The 2008 *Great Recession* challenges his narrative but is postponed to the conclusion.

Christophers also teases out the increasingly international nature of legal debates since the mid-1970s alongside neoliberal capitalist globalization, examining the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) and EU law. This shifts the scale at which market structures are conceived, from monopoly within national markets to national champions in global markets. This would require further conceptual reflection, given the national territorial nature of the argument heretofore. Christophers assays a beginning on this in the conclusion. He argues that the Great Recession was triggered by excessive global monopoly power (Harvey, his muse, stresses underconsumption: wages having stagnated with offshoring of employment and workfare state policies, triggering the credit boom that was its immediate cause). Looking forward, he notes excess monopolization at the global scale but no significant international antitrust initiatives, speculating whether "we *are* now transitioning to a new [monopoly] stage of capitalism" (p. 281).

Two questions remained, having read this fascinating, persuasive, and well-documented analysis. First, how do we judge the law's causal effect? Other "multiple factors" (p. 258) shaping the economic shifts are briefly analyzed, whose relative causal efficacy is not teased out on Christophers's road to "asserting that the law … represents an enduring force" (p.264). His convincing argument that law matters elides unresolved differences with regulationist accounts. Are IP and competition law not part of a closely interrelated cluster of factors (the *mode of regulation*) that overdetermine shifts in the political economy—including the politics of production and political and economic ideology? Second, how do we judge his rather functionalist account, whereby legal shifts repeatedly are deemed "necessary" (p. 268) to righting the listing deck of capitalist accumulation? This straightforward capital-logic account rubs up against Christophers's own desire to decenter production (chapter 2), and feels overly deterministic given the contingencies and uncertainties of capitalism as a complex dynamical system. Yet its capacity to generate such deep-ranging questions is a tribute to the power and significance of this monograph.

Eric Sheppard

University of California, Los Angeles